

DAN MARMALEFSKY
(CA SBN 95477)
DMarmalefsky@mofo.com
Morrison & Foerster LLP
707 Wilshire Boulevard
Los Angeles, California 90017-3543
Telephone: 213-892-5200
Facsimile: 213-892-5454

RONALD G. WHITE
(admitted pro hac vice)
RWhite@wmhwlaw.com
Walden Macht Haran & Williams LLP
250 Vesey Street
New York, NY 10281
Telephone: 212-335-2387
Facsimile: 212-335-2040

Attorneys for Defendant Bernd Bergmair

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

K.A.,
Plaintiff,
vs.
MINDGEEK S.A.R.L., et al.,
Defendants.

Case No. 2:24-cv-04786-WLH-ADS

**DEFENDANT BERND
BERGMAIR'S NOTICE OF
MOTION AND MOTION TO
DISMISS PLAINTIFF'S
COMPLAINT
FOR LACK OF PERSONAL
JURISDICTION [FRCP
12(B)(2)] AND FOR
FAILURE TO STATE A
CLAIM [FRCP 12(B)(6)];
MEMORANDUM OF
POINTS AND
AUTHORITIES**

Date: January 31, 2025
Time: 1:30 p.m.
Courtroom: 9B
Judge: Hon. Wesley L. Hsu
Complaint Filed: June 7, 2024
Trial Date: None Set

NOTICE OF MOTION AND MOTION

TO PLAINTIFF AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on January 31, 2025 at 1:30 pm, or as soon thereafter as the matter may be heard, before the Honorable Wesley L. Hsu, in Courtroom 9B of the First Street Courthouse, located at 350 W. 1st Street, Los Angeles, California 90012, Defendant Bernd Bergmair will and does hereby move to dismiss the Complaint filed by Plaintiff K.A. in its entirety.

This Motion is made pursuant to Federal Rule of Civil Procedure 12(b)(2), on the grounds that the Court lacks personal jurisdiction over Defendant Bergmair, and Rules 12(b)(6) and 9(b), on the grounds that the Complaint fails to state a claim against him upon which relief may be granted.

This Motion is based on this Notice of Motion and Motion; the Memorandum of Points and Authorities in support thereof; Defendant Bergmair's Motion to dismiss in *Fleites v. MindGeek, et al.*, Docket No. 2:21-cv-4920-WLH-ADS (C.D. Cal.) and Memorandum of Points and Authorities in support thereof; the Motions and Memoranda of Points and Authorities in support thereof of the other Defendants in this action and in *Fleites*; the pleadings and other records in the Court's file; and such other written and oral argument as may be presented to the Court.

This Motion is made following the conference of counsel pursuant to L.R. 7-3, which took place on October 14, 2024.

Dated: October 30, 2024

By: /s/ Ronald G. White

RONALD G. WHITE

(admitted *pro hac vice*)

rwhite@wmhwlaw.com

Walden Macht Haran & Williams LLP

250 Vesey Street

New York, NY 10281

Tel: (212) 335-2387

Fax: (212) 335-2040

DAN MARMALEFSKY (CA SBN

95477)
DMarmalefsky@mofo.com
Morrison & Foerster LLP
707 Wilshire Boulevard
Los Angeles, California 90017-3543
Telephone: 213-892-5200
Facsimile: 213-892-5454

Attorneys for Defendant Bernd
Bergmair

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24
25
26
27
28

TABLE OF CONTENTS

	<u>Pages</u>
NOTICE OF MOTION AND MOTION.....	i
INTRODUCTION	1
FACTUAL BACKGROUND.....	4
ARGUMENT.....	8
I. Plaintiffs have not established personal jurisdiction over Bergmair.....	8
A. The Complaints’ “Group Pleading” allegations are insufficient to establish personal jurisdiction over Bergmair.	8
B. The Complaints’ remaining allegations are insufficient to establish personal jurisdiction over Bergmair.	10
II. Plaintiffs have failed to state a claim against Bergmair.....	14
A. Section 230 bars all of Plaintiffs’ claims against Bergmair.	14
B. The Complaints’ generalized allegations fail to state a claim.	14
1. The Complaints’ “Group Pleading” allegations are insufficient to state a claim against Bergmair.	14
2. The Complaints do not plead facts establishing that Bergmair was the guiding spirit or a direct participant in the alleged tortious conduct.....	15
C. The Complaints fail to properly allege a valid claim on specific counts.	16
1. The federal trafficking claims (Counts I and IV) fail to state a claim.	16
2. The federal child pornography claims (Counts V and VI) fail to state a claim.....	17
3. The California common law claims (Counts VII, VIII, IX, X, XIII, XVI, XVII) fail to state a claim.	17
4. The California statutory claims (Counts XI, XII, XIV, XV) fail to state a claim.....	19

1	CONCLUSION.....	21
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

TABLE OF AUTHORITIES

	<u>Pages</u>
 <u>Cases</u>	
<i>A.B. v. Hilton Worldwide Holdings, Inc.</i> , 484 F. Supp. 3d 921 (D. Or. 2020).....	12
<i>Addaday, Inc. v. Artist Int’l Co.</i> , 2022 WL 1516053 (C.D. Cal. Feb. 22, 2022).....	18
<i>Aldini AG v. Silvaco, Inc.</i> , 2022 WL 20016826 (N.D. Cal. Aug. 3, 2022).....	19
<i>Beatport LLC v. SoundCloud Ltd</i> , 2020 WL 3977602 (C.D. Cal. July 13, 2020)	9
<i>Bristol-Myers Squibb Co. v. Superior Ct.</i> , 137 S. Ct. 1773 (2017)	13
<i>Broidy Capital Mgmt. v. Qatar</i> , 2018 WL 9943551 (C.D. Cal. Aug. 22, 2018).....	9
<i>Calder v. Jones</i> , 465 U.S. 783 (1984)	9
<i>Coastal Abstract Service, Inc. v. First American Title Ins. Co.</i> , 173 F.3d 725 (9th Cir. 1999).....	15
<i>Corazon v. Aurora Loan Services, LLC</i> , 2011 WL 1740099 (N.D. Cal. May 5, 2011)	15
<i>Core-Vent Corp. v. Nobel Industries AB</i> , 11 F.3d 1482 (9th Cir. 1993).....	11
<i>Coste v. Fox Beverage USA Inc.</i> , 2023 WL 8522987 (C.D. Cal. Oct. 10, 2023)	11
<i>Davis v. Metro Prods., Inc.</i> , 885 F.2d 515 (9th Cir. 1989).....	15
<i>Diamond Multimedia Sys., Inc. v. Superior Ct.</i> , 19 Cal. 4th 1036 (Cal. 1999)	18, 20

1	<i>Doe v. American Red Cross,</i>	
2	112 F.3d 1048 (9th Cir. 1997).....	12
3	<i>Dole Food Co. v. Watts,</i>	
4	303 F.3d 1104 (9th Cir. 2002).....	13
5	<i>E.D.C. Technologies, Inc. v. Seidel,</i>	
6	2016 WL 4549132 (N.D. Cal. Sept. 1, 2016)	15
7	<i>Facebook, Inc. v. Power Ventures, Inc.,</i>	
8	844 F.3d 1058 (9th Cir. 2016).....	15
9	<i>Fagbohunge v. Caltrans,</i>	
10	2014 WL 644008 (N.D. Cal. Feb. 19, 2014).....	15
11	<i>Fleites v. MindGeek,</i>	
12	2022 WL 1314035 (C.D. Cal. Feb. 10, 2022).....	4
13	<i>Fleites v. MindGeek,</i>	
14	2022 WL 4455558 (C.D. Cal. July 29, 2022)	9
15	<i>Gerritsen v. Warner Bros. Ent. Inc.,</i>	
16	112 F. Supp. 3d 1011 (C.D. Cal. 2015).....	11
17	<i>Holland Am. Line Inc. v. Wartsila N. Am., Inc.,</i>	
18	485 F.3d 450 (9th Cir. 2007).....	12
19	<i>In re Boon Global Ltd.,</i>	
20	923 F.3d 643 (9th Cir. 2019).....	9, 11
21	<i>In re Western States Wholesale Natural Gas Antitrust Litigation,</i>	
22	715 F.3d 716 (9th Cir. 2013).....	12
23	<i>Johnson v. UBS AG,</i>	
24	860 F. App'x 531 (9th Cir. 2021).....	12
25	<i>Norwest Mortgage, Inc. v. Superior Court,</i>	
26	72 Cal. App. 4th 214 (Cal. Ct. App. 1999)	21
27	<i>Prime Healthcare Centinela, LLC v. Kimberly-Clark Corp.,</i>	
28	2016 WL 7177532 (C.D. Cal. May 26, 2016)	12
	<i>Ratha v. Rubicon Resources, LLC,</i>	
	111 F.4th 946 (9th Cir. 2024).....	17

1	<i>Russo v. APL Marine Servs., Ltd.</i> ,	
2	135 F. Supp. 3d 1089 (C.D. Cal. 2015), <i>aff'd</i> , 694 F. App'x 585 (9th	
3	Cir. 2017).....	18
4	<i>Securities and Exchange Comm'n v. Ferrante</i> ,	
5	2019 WL 8230852 (C.D. Cal. Jan. 23, 2019)	14
6	<i>Sollberger v. Wachovia Sec., LLC</i> ,	
7	2010 WL 2674456 (C.D. Cal. June 30, 2010)	14
8	<i>Standfacts Credit Services, Inc. v. Experian Information Solutions, Inc.</i> ,	
9	405 F. Supp. 2d 1141 (C.D. Cal. 2005).....	20
10	<i>Sullivan v. Oracle Corp.</i> ,	
11	51 Cal. 4th 1191 (Cal. 2011).....	20
12	<i>Symettrica Ent., Ltd. v. UMG Recordings, Inc.</i> ,	
13	2019 WL 8806093 (C.D. Cal. Sept. 20, 2019).....	11
14	<i>Vess v. Ciba-Geigy Corp., USA</i> ,	
15	317 F.3d 1097 (9th Cir. 2003).....	14
16	<i>Warner v. Tinder, Inc.</i> ,	
17	105 F. Supp. 3d 1083 (C.D. Cal. 2015).....	20
18	<i>Yost v. Nationstar Mortgage, LLC</i> ,	
19	2013 WL 4828590 (E.D. Cal. Sept. 9, 2013).....	15
20	<i>Zakikhan v. Hyundai Motor Co.</i> ,	
21	2021 WL 4805454 (C.D. Cal. June 28, 2021)	19
22	<u>Statutes</u>	
23	18 U.S.C § 1594(c)	16
24	18 U.S.C. § 2252.....	17
25	18 U.S.C. §1591.....	16
26	18 U.S.C. §1595.....	16, 17
27	47 U.S.C. § 230.....	2, 14, 16
28	CA Penal Code § 236.1	19, 20
	Cal. Civ. Code § 1708.85.....	19

1 Cal. Civ. Code § 3344..... 19

2 **Rules**

3 Fed. R. Civ. P 12(b)(2) i

4 Fed. R. Civ. P 12(b)(6) i, 16

5 Fed. R. Civ. P. 8(a) 14

6 Fed. R. Civ. P. 9(b) i, 14

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INTRODUCTION

Several years after the Court found that Plaintiff’s counsel had improperly joined claims that were factually dissimilar in *Fleites v. MindGeek S.à.r.l.*,¹ and severed all but one of the 34 plaintiffs in that case, Plaintiff’s counsel filed this case and 13 other related cases² (collectively, “Related Cases”) on behalf of individual plaintiffs against MindGeek and its individual former shareholders, including defendant Bernd Bergmair. Although the factual circumstances of each of the individual Plaintiffs in the Related Cases differ from those in *Fleites*, the claims and allegations in the Related Cases are similar to *Fleites* – and similarly deficient. As demonstrated in Bergmair’s motion to dismiss the Second Amended Complaint (“SAC”) in *Fleites*,³ Plaintiff Serena Fleites, even on her third bite at the apple and with the benefit of extensive jurisdictional discovery, was unable to establish a basis for personal jurisdiction over Bergmair. Bergmair’s motion to dismiss (and those of

¹ Docket No. 2:21-cv-4920-WLH-ADS (C.D. Cal.) (“*Fleites*”).

² In addition to the above-captioned case, the other Related Cases (and their dates of filing) are: *L.T. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-04791-WLH-ADS (C.D. Cal. June 7, 2024); *N.L. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-04788-WLH-ADS (C.D. Cal. June 7, 2024); *N.Y. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-04801-WLH-ADS (C.D. Cal. June 7, 2024); *T.C. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-04795-WLH-ADS (C.D. Cal. June 7, 2024); *X.N. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-04800-WLH-ADS (C.D. Cal. June 7, 2024); *J.C. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-04971-WLH-ADS (C.D. Cal. June 12, 2024); *C.S. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-04992-WLH-ADS (C.D. Cal. June 13, 2024); *S.O. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-04998-WLH-ADS (C.D. Cal. June 13, 2024); *W.L. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-04977-WLH-ADS (C.D. Cal. June 13, 2024); *L.S. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-05026-WLH-ADS (C.D. Cal. June 14, 2024); *A.K. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-05190-WLH-ADS (C.D. Cal. June 20, 2024); *W.P. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-05185-WLH-ADS (C.D. Cal. June 20, 2024); *J.L. v. MindGeek S.à.r.l., et al.*, No. 2:24-cv-07046-WLH-ADS (C.D. Cal. Aug. 20, 2024).

³ Defendant Bernd Bergmair’s Motion to Dismiss Plaintiff’s Second Amended Complaint in *Fleites*, ECF No. 433 (“Bergmair Motion”).

1 the other defendants) in *Fleites* also established that plaintiff's claims were barred
2 by Section 230 of the Communications Decency Act⁴ ("Section 230"). Finally,
3 Bergmair's motion to dismiss demonstrated that, even if *Fleites* could surmount the
4 personal jurisdiction and Section 230 hurdles, the allegations in the SAC were
5 insufficient to state a claim against Bergmair. Here, the complaints in the Related
6 Cases ("Complaints"), with their conclusory, group-pleading allegations, are even
7 more deficient than the *Fleites* SAC.

8 Plaintiffs in the Related Cases, just like plaintiff *Fleites*, cannot get around the
9 fact that Bergmair is a resident of China, who does not live or work in or have any
10 connection to California or the United States. Bergmair is alleged, at most, to have
11 been an indirect former shareholder, with no management position, of a corporation
12 based outside the United States that Plaintiffs claim injured them. Despite running
13 over 450 paragraphs, the Complaints in the Related Cases do not describe a single
14 concrete act by Bergmair in furtherance of any of the tortious conduct Plaintiffs
15 allege, much less any directed at California. The Complaints do not allege that
16 Bergmair had any contact with Plaintiffs or their videos, or even knew of their
17 existence, much less knew in what state or country they resided.

18 In addition to the grounds set forth in Bergmair's motion to dismiss in *Fleites*,
19 the Complaints in the Related Cases are deficient for additional reasons as well.
20 **First**, virtually all the allegations involving Bergmair consist of "group pleading,"
21 lumping all the individual defendants together without differentiating their roles.
22 This approach is insufficient to either establish personal jurisdiction over Bergmair
23 or state a claim against him.

24 **Second**, unlike the California-resident plaintiff in *Fleites*, Plaintiffs in 12 of
25 the 14 Related Cases are not California residents. Six of them allege that they were
26 residents of states other than California at the time their claims arose (collectively,
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⁴ 47 U.S.C. § 230.

1 “Non-CA Plaintiffs”).⁵ Six others allege that they were residents of foreign counties
2 at the time their claims arose (collectively, “Foreign Plaintiffs”).⁶ As a result, these
3 Plaintiffs are unable to establish a required element of personal jurisdiction: that they
4 were injured by Bergmair’s purported California-related conduct. Here, the
5 Complaints allege no conduct by Bergmair in California at all. But even if some
6 had been alleged, these Plaintiffs resided outside California when the allegedly
7 tortious conduct occurred, so their injuries were necessarily sustained in other states
8 and countries and could not have arisen from any California-related actions of
9 Bergmair. On this basis alone, the 12 Related Cases brought by Non-CA Plaintiffs
10 and Foreign Plaintiffs should be dismissed for lack of personal jurisdiction.

11 **Third**, Non-CA Plaintiffs and Foreign Plaintiffs have no standing to bring
12 claims under California statutory or common law. California law does not reach
13 conduct outside California or address injuries to parties outside California. On this
14 basis, all 11 of these Plaintiffs’ California law claims against Bergmair should be
15 dismissed. And since their remaining four claims against Bergmair based on federal
16 statutes fail for the reasons set forth in Bergmair’s motion to dismiss in *Fleites*, the
17 entire Complaint in each of these cases should be dismissed.⁷

18 Based on the arguments in this motion and in Bergmair’s motion to dismiss
19 in *Fleites*, the Court should dismiss the Complaints in all 14 of the Related Cases
20 with prejudice for both lack of personal jurisdiction and failure to state a claim for
21 relief.

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23 ⁵ Plaintiffs K.A. (Missouri); T.C. (Rhode Island); N.L. (Colorado); J.C. (New York);
24 A.K. (Florida); and L.T. (New Hampshire).

25 ⁶ Plaintiffs N.Y. (United Kingdom); C.S. (Thailand); S.O. (Thailand); W.P.
26 (Thailand); X.N. (Colombia); and L.S. (Colombia).

27 ⁷ The complaints of the two California-resident plaintiffs (Plaintiffs J.L. and W.L.)
28 should similarly be dismissed for the reasons set forth in this motion and Bergmair’s
motion in *Fleites*, as well as the motions of the other defendants in this case and
Fleites.

FACTUAL BACKGROUND

On June 17, 2021, Serena Fleites and 33 Jane Doe plaintiffs filed a lawsuit against the same MindGeek entities and former shareholders as in this action, raising essentially the same allegations and claims. *Fleites*, ECF No. 1. On February 10, 2022, the Court (Carney, J.) granted the MindGeek defendants’ motion to sever, ruling that the individual plaintiffs’ claims were “predicated on vastly different factual scenarios,” and as a result, did not present “common questions of law or fact.” *Fleites v. MindGeek*, 2022 WL 1314035 at *6 (C.D. Cal. Feb. 10, 2022). The Court held that the plaintiffs’ allegations regarding the creation of the content ultimately posted to MindGeek websites “differ[ed] substantially in where the improper conduct allegedly occurred, how it occurred and who perpetrated the conduct.” *Id.* at *4. The Court similarly found that the plaintiffs’ videos were posted to MindGeek’s platforms at different time periods, and that each plaintiff’s interactions with MindGeek were “unique and factually distinct.” *Id.* The Court ultimately concluded that, in light of the wide variation in plaintiffs’ individual factual allegations, a “trial would be unmanageable and would be difficult to present in a manner” that would not cause jury confusion. *Id.* at *8. As a result, the Court severed the 33 Doe plaintiffs and the *Fleites* case proceeded with the single named plaintiff. *Id.*

Over two years later, between June 7, 2024 and August 20, 2024, 14 Plaintiffs filed virtually identical Complaints in the Related Cases against the MindGeek corporate defendants and former shareholders. At least eight of the Plaintiffs appear to be among the plaintiffs severed by the Court in *Fleites* in February 2022.⁸ With the exception of several paragraphs in each Complaint regarding the individual

⁸ Plaintiff N.Y. (Jane Doe No. 2 in *Fleites*); Plaintiff N.L. (Jane Doe No. 3 in *Fleites*); Plaintiff T.C. (Jane Doe No. 5 in *Fleites*); Plaintiff X.N. (Jane Doe No. 8 in *Fleites*); Plaintiff L.S. (Jane Doe No. 9 in *Fleites*; Plaintiff C.S. (Jane Doe No. 10 in *Fleites*); Plaintiff S.O. (Jane Doe No. 12 in *Fleites*); Plaintiff W.P. (Jane Doe No. 13 in *Fleites*).

1 Plaintiff's specific circumstances, the Complaints in the Related Cases are virtually
2 identical. As a result, pursuant to a stipulation of the parties, the Court ordered
3 defendants to file in this *K.A.* case one omnibus motion to dismiss the 14 Related
4 Cases, which could incorporate by reference arguments made in the defendants'
5 motions to dismiss the SAC in the *Fleites* case, which were filed August 30, 2024.⁹
6 As further directed by the Court, notices referencing the instant omnibus motion to
7 dismiss are being contemporaneously filed in the other 13 Related Cases.

8 Although the individual circumstances vary widely, each Related Cases
9 Plaintiff alleges that when she was a minor, she was featured in sexually explicit
10 videos that third parties later posted on websites operated by one or more of the
11 MindGeek group of entities (collectively, "MindGeek"). June Compl.¹⁰ ¶¶ 311 *et*
12 *seq.*; J.L. Compl. ¶¶ 309 *et seq.* Setting aside the Complaints' dozens of pages of
13 accusations that have nothing whatsoever to do with the Related Cases Plaintiffs'
14 claims, the gist of each Plaintiff's allegations is that MindGeek did not employ
15 effective content "moderation," *i.e.*, monitoring of content uploaded by third-party
16 users to screen for underage content, in violation of its published terms of service.
17 June Compl. ¶¶ 2, 57-58, 67-68, 73; J.L. Compl. ¶¶ 2, 55-56, 65-66, 71. Two of the
18 Related Cases Plaintiffs (J.L. and W.L.) allege that they were residents of California
19 at the time their claims arose. J.L. Compl. ¶ 10; W.L. Compl. ¶ 10. The remaining
20 12 Related Cases Plaintiffs – Non-CA Plaintiffs and Foreign Plaintiffs¹¹ – allege no
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24 ⁹ October 9, 2024 Order Granting Joint Stipulation to Request Limited Coordination
25 for Purposes of Responding to Complaints in Related Cases (ECF No. 54). The
26 Court's Order also expanded the page limit for this brief to 50 pages.

27 ¹⁰ Citations to "June Compl." refer to the complaints in all the Related Cases filed in
28 June 2024 (*i.e.*, all the Related Cases except *J.L.*). References to specific complaints
will be referred to by the plaintiff's initials followed by "Compl." (*e.g.*, J.L. Compl.).

¹¹ See footnotes 4 and 5 above.

1 connection to California.¹²

2 The Complaints acknowledge that Bergmair resides in Hong Kong, China,
3 was merely a shareholder in MindGeek and held no management position. June
4 Compl. ¶ 17; J.L. Compl. ¶ 17. The Complaints further concede that defendants
5 Feras Antoon and David Tassillo, whom they describe as MindGeek’s “defacto”
6 CEO and COO, “handl[ed] the direct day-to-day implementation” of the company’s
7 operations. June Compl. ¶¶ 18-19, 112; J.L. Compl. ¶¶ 18-19, 110. Even though
8 each of the Complaints contains over 450 paragraphs, only a handful of them
9 attribute any conduct to Bergmair individually. The vast majority of the references
10 to Bergmair are in the form of “group pleading” – allegations attributing conduct to
11 all the Individual Defendants¹³ as a group, without differentiating between them.
12 Twenty-five paragraphs of the Complaints attribute conduct to the “Individual
13 Defendants,” making no distinction between them (June Compl. ¶¶ 6-7, 14-16, 20-
14 23, 104, 112, 150-52, 154, 160, 199-200, 236, 247, 260, 270, 300, 302-03; J.L.
15 Compl. ¶¶ 6-7, 14-16, 20-23, 102, 110, 148-50, 152, 158, 197-199, 234, 245, 258,
16 268, 298, 300-01), while another fifteen paragraphs allege conduct by all three
17 defendants using their names but without differentiating among them (June Compl.
18 ¶¶ 2, 17-19, 111, 113, 138, 157, 202-04, 207, 209, 216, 238; J.L. Compl. ¶¶ 2, 15-
19 17, 109, 111, 136, 155, 200-02, 205, 207, 214, 236). The Complaints cite no
20 concrete actions by Bergmair directing or implementing the MindGeek content
21 moderation policies supposedly applied to Plaintiffs’ videos. Instead, the
22 Complaints simply repeat, in various formulations, that Bergmair, along with the

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25 ¹² K.A. Compl. ¶ 10; L.T. Compl. ¶ 10; N.L. Compl. ¶ 10; N.Y. Compl. ¶ 10; T.C.
26 Compl. ¶ 10; X.N. Compl. ¶ 10; J.C. Compl. ¶ 10; C.S. Compl. ¶ 10; S.O. Compl. ¶
27 10; L.S. Compl. ¶ 10; A.K. Compl. ¶ 10; W.P. Compl. ¶ 10.

28 ¹³ The Complaints define the Individual Defendants as including Bergmair and
defendants Antoon and Tassillo. June Compl., p.1; J.L. Compl., p.1.

1 other former shareholders, adopted an “unrestricted content model” for MindGeek.¹⁴
2 June Compl. ¶¶ 2, 17, 111-12, 114, 150-59; J.L. Compl. ¶¶ 2, 17, 109-10, 112, 148-
3 57. The Complaints also allege that Bergmair approved MindGeek’s major
4 decisions but identify no such decisions other than the supposed adoption of its
5 “unrestricted content model.” June Compl. ¶¶ 2, 17-19, 111-12, 114, 152, 159, 302;
6 J.L. Compl. ¶¶ 2, 17-19, 109-10, 112, 150, 157, 300. The Complaints essentially
7 allege *inaction* by Bergmair since they allege that MindGeek was already operating
8 such an “unrestricted content model” prior to Bergmair’s investment in the company
9 (June Compl. ¶¶ 112, 152-53; J.L. Compl. ¶¶ 110, 150-51) and that the company
10 thereafter took no action to screen for underage content (June Compl. ¶¶ 60, 71, 83,
11 91, 108, 114, 151; J.L. Compl. ¶¶ 58, 69, 81, 89, 106, 112, 149). The Complaints
12 allege no conduct by Bergmair in or aimed at California, or anywhere else in the
13 United States. The Complaints similarly do not allege that Bergmair had any
14 dealings with the Related Cases Plaintiffs, or even knew of their existence. Nor do
15 the Complaints allege any action taken by Bergmair with respect to the videos
16 depicting the Plaintiffs.

17 The Complaints also include boilerplate allegations that there were
18 “hundreds” of MindGeek corporate entities and that all of them were alter egos of
19 each and every one of the others and of each of the Individual Defendants. June
20 Compl. ¶¶ 20-23, 300; J.L. Compl. ¶¶ 20-23, 298. These alter ego allegations simply

21 ¹⁴ The Complaints also contain a host of allegations that Bergmair, along with the
22 other Individual Defendants, took certain actions that have nothing to do with each
23 Plaintiff’s claims regarding how MindGeek handled the videos featuring her. These
24 allegations, which mostly relate to MindGeek’s responses to media stories that did
25 not involve Plaintiffs and that were published years after their videos first
26 supposedly appeared on MindGeek sites, are irrelevant. These allegations similarly
27 constitute impermissible “group pleading” – describing a MindGeek corporate
28 action and then appending a boilerplate allegation that it was directed by all the
Individual Defendants, or by defendants Antoon and Tassillo “in consultation” with
Bergmair. June Compl. ¶¶ 138, 200, 202-04, 207, 209, 216, 238; J.L. Compl. ¶¶
136, 198, 200-02, 205, 207, 214, 236.

1 recite, with no factual detail regarding Bergmair, the hornbook elements of the alter
2 ego doctrine. *Id.*

3 In support of this motion to dismiss, Bergmair submitted a declaration stating,
4 in relevant part, that: (1) he is a resident of China, who does not reside or work in
5 the United States; (2) prior to these litigations, he was unaware of the existence of
6 the Related Cases Plaintiffs or their videos; (3) while he was a MindGeek
7 shareholder, he did not direct MindGeek’s day-to-day operations or set or approve
8 its corporate policies and practices and that the company was instead managed by a
9 full-time senior management team; and (4) he did not adopt or maintain an
10 “unrestricted content” business model at MindGeek or direct or implement
11 MindGeek’s content moderation policies and practices. Declaration of Bernd
12 Bergmair in Support of Motion to Dismiss Plaintiff’s Complaint (“Bergmair Decl.”)
13 at ¶¶ 2-7.

14 **ARGUMENT**¹⁵

15 **I. Plaintiffs have not established personal jurisdiction over Bergmair.**

16 **A. The Complaints’ “Group Pleading” allegations are insufficient to** 17 **establish personal jurisdiction over Bergmair.**¹⁶

18 Despite their length, only a handful of allegations in the Complaints attribute
19 any conduct to Bergmair individually. The vast majority of the references to
20 Bergmair are in the form of impermissible “group pleading” – allegations attributing
21 conduct to all the Individual Defendants as a group, without differentiating between
22 them. Forty separate paragraphs of the Complaints allege conduct collectively by the

23
24 ¹⁵ In addition to the arguments set forth here, Bergmair joins in the motions
25 submitted by all other defendants, as applicable.

26 ¹⁶ There is no serious argument that Bergmair is subject to general jurisdiction in
27 this district. The Complaint confirms that Bergmair resides in China (June Compl.
28 ¶ 17; J.L. Compl. ¶ 17) and alleges no contacts with California, much less the
“continuous and systematic” contacts needed to establish general jurisdiction over
him. Bergmair Motion at 10, n.10.

1 “Individual Defendants” or by all three defendants using their names – as if that
2 excuses the lack of specificity – but without differentiating among them. June
3 Compl. ¶¶ 2, 6-7, 14-19, 20-23, 104, 111-13, 138, 150-52, 154, 157, 160, 199-200,
4 202-04, 207, 209, 216, 236, 238, 247, 260, 270, 300, 302-03; J.L. Compl. ¶¶ 2, 6-7,
5 14-19, 20-23, 102, 109-11, 136, 148-50, 152, 155, 158, 197-198, 200-02, 205, 207,
6 214, 234, 236, 245, 258, 268, 298, 300-01. This is plainly insufficient to establish
7 personal jurisdiction. As the Supreme Court has mandated, “each party’s contacts
8 with the forum state must be assessed individually.” *In re Boon Global Ltd.*, 923
9 F.3d 643, 651 (9th Cir. 2019) (quoting *Calder v. Jones*, 465 U.S. 783, 790 (1984)).
10 Such pervasive use of group pleading cannot satisfy Plaintiffs’ burden to establish
11 the sort of individualized facts required to support personal jurisdiction over
12 Bergmair, who is admittedly a foreign resident. Indeed, the Court previously put
13 Plaintiff’s counsel on notice in *Fleites* that the same threadbare allegations were not
14 sufficient to establish personal jurisdiction. *Fleites v. MindGeek*, 2022 WL 4455558
15 at *3 (C.D. Cal. July 29, 2022) (noting the “group-pleading problem that
16 unfortunately plagues Plaintiff’s [complaint]” in which plaintiff lumped all the
17 individual defendants together as responsible for all of MindGeek’s practices and
18 policies). *See Beatport LLC v. SoundCloud Ltd*, 2020 WL 3977602 at *6 (C.D. Cal.
19 July 13, 2020) (finding plaintiff’s group pleading insufficient to establish personal
20 jurisdiction over foreign defendant and holding that it is “implausible” and
21 “obviously conclusory” for a plaintiff to “say that A and B (and C and D) all did the
22 same thing to me, without making any attempt to distinguish between the parties or
23 to explain in any way the basis for their alleged culpability”); *Broidy Capital Mgmt.*
24 *v. Qatar*, 2018 WL 9943551 at *7 (C.D. Cal. Aug. 22, 2018) (plaintiff cannot
25 establish personal jurisdiction by alleging without differentiation that “defendants”
26 took actions in or aimed at California “because those sorts of ‘shotgun’ pleadings do
27 not satisfy Plaintiffs’ burden to demonstrate personal jurisdiction with respect to each
28 defendant”).

B. The Complaints’ remaining allegations are insufficient to establish personal jurisdiction over Bergmair.

The Complaints’ handful of remaining allegations against Bergmair are insufficient to establish specific jurisdiction over him. The allegations in *Fleites* fall well short of establishing jurisdiction over Bergmair (Bergmair Motion at 9-34), and the conclusory, formulaic allegations in the Related Cases are even more inadequate. The allegations in the Related Cases are even more flawed than in *Fleites* in several respects.

First, the *Fleites* SAC at least had some factual allegations regarding alter ego – even though they did not come remotely close to demonstrating an alter ego relationship between Bergmair and any MindGeek company. Bergmair Motion at 17-30. By contrast, the Related Cases Complaints do nothing more than string together boilerplate conclusory allegations. With respect to the unity of interest prong, the Related Cases Complaints simply recite, with no factual detail regarding Bergmair, the hornbook elements of the alter ego doctrine and assert that each MindGeek corporation is an alter ego of every other one and of every individual MindGeek defendant. June Compl. ¶¶ 20-23, 300; J.L. Compl. ¶¶ 20-23, 298. With respect to the injustice prong, the Complaints’ only allegation is a single conclusory sentence stating that recognizing MindGeek’s corporate form would “promote injustice.” June Compl. ¶ 23; J.L. Compl. ¶ 23. This is plainly insufficient. Indeed, nowhere do the Complaints allege that any of the MindGeek defendant entities are insolvent or otherwise unable to satisfy a judgment; instead, the Complaints make clear that MindGeek has substantial assets.¹⁷ Conclusory allegations of alter ego status are insufficient to confer personal jurisdiction; rather, a plaintiff must allege

¹⁷ For example, the Related Cases Complaints allege that MindGeek is a “dominant” monopoly in its industry (June Compl. ¶ 2; J.L. Compl. ¶ 2) earns “enormous sums of money” (June Compl. ¶¶ 1, 9; J.L. Compl. ¶¶ 1, 9) and in one recent year, one of its businesses had revenues of \$460 million (June Compl. ¶ 37; J.L. Compl. ¶ 35).

1 specific facts supporting the elements of alter ego liability. *See Coste v. Fox*
2 *Beverage USA Inc.*, 2023 WL 8522987 at *5 (C.D. Cal. Oct. 10, 2023) (Hsu, J.)
3 (rejecting alter ego claim where complaint “lacks specific facts” and “merely recites
4 the [alter ego] elements in a conclusory fashion”). *See also In re Boon Global*, 923
5 F.3d at 654; *Symettrica Ent., Ltd. v. UMG Recordings, Inc.*, 2019 WL 8806093, at
6 *4 (C.D. Cal. Sept. 20, 2019); *Gerritsen v. Warner Bros. Ent. Inc.*, 112 F. Supp. 3d
7 1011, 1042 (C.D. Cal. 2015). In addition to what the Related Cases Complaints
8 lack, they include a concession that Bergmair did *not* control MindGeek’s day-to-
9 day operations. June Compl. ¶ 112 (Antoon and Tassillo “handl[ed] the direct day-
10 to-day implementation” of MindGeek’s operations); J.L. Compl. ¶ 110 (same).¹⁸
11 Since the Ninth Circuit has repeatedly identified control of a corporation’s daily
12 operations as an indispensable element of an alter ego claim (Bergmair Motion at
13 21), the Related Cases Complaints’ own allegations refute the claim that Bergmair
14 was an alter ego of MindGeek.

15 **Second**, as demonstrated in Bergmair’s motion in *Fleites*, the plaintiff there
16 failed to satisfy the third prong of the *Calder* test, which requires that the defendant’s
17 conduct caused harm “which is suffered – and which the defendant knows is likely
18 to be suffered – in the forum state.” *Core-Vent Corp. v. Nobel Industries AB*, 11
19 F.3d 1482, 1486 (9th Cir. 1993). Since the *Fleites* complaint did not allege that
20 Bergmair knew the plaintiff, he could not have known anything about where she
21 would allegedly suffer harm. Bergmair Motion at 31. Since there are no allegations
22 that Bergmair knew of any of the Plaintiffs in the Related Cases, the same analysis
23 applies to them. But 12 of the 14 Related Cases have an additional flaw. With
24 respect to Foreign Plaintiffs and Non-CA Plaintiffs, their alleged injuries were not
25 suffered in California at all, so Bergmair certainly could not have anticipated any

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27 ¹⁸ Bergmair’s declaration, submitted in support of his motion, confirms that he did
28 not direct MindGeek’s day-to-day operations, and that the company was managed by
a full-time senior management team, which had been in place for several years before
he invested in the company. Bergmair Decl. at ¶ 6.

1 harm to them in California.

2 **Third**, as Bergmair demonstrated in his motion in *Fleites*, the plaintiff there
3 was unable to establish the second element of specific jurisdiction, namely, that her
4 claims arose from Bergmair’s alleged forum-related activities. Bergmair Motion at
5 31-32. To satisfy this element, Plaintiff must show a “direct nexus” between the
6 defendant’s forum-related contacts and her cause of action. *In re Western States*
7 *Wholesale Natural Gas Antitrust Litigation*, 715 F.3d 716, 742 (9th Cir. 2013).
8 Contacts that are too “attenuated” from the claims at issue do not satisfy this test.
9 *Doe v. American Red Cross*, 112 F.3d 1048, 1051 (9th Cir. 1997). In the Related
10 Cases, the two California-resident Plaintiffs (J.L. and W.L.), just like plaintiff
11 Fleites, cannot establish the required “direct nexus” because Bergmair’s alleged
12 conduct is too “attenuated” from her claims. *Id.* But Foreign Plaintiffs and Non-
13 CA Plaintiffs, who did not reside in California at the time the allegedly tortious
14 conduct occurred, even more clearly fail this element of the jurisdictional analysis
15 because their injuries were not sustained in California at all, but in other states and
16 countries. As a result, their claims plainly did not arise from any California-related
17 actions of Bergmair. *See Johnson v. UBS AG*, 860 F. App’x 531, 533 (9th Cir. 2021)
18 (affirming dismissal where plaintiff’s claim did not arise out of defendant
19 corporation’s activities in California); *Holland Am. Line Inc. v. Wartsila N. Am.,*
20 *Inc.*, 485 F.3d 450, 460–61 (9th Cir. 2007) (plaintiff’s injury was sustained outside
21 forum state so it was unable to satisfy nexus requirement between its claim and
22 defendant’s forum-related conduct); *A.B. v. Hilton Worldwide Holdings, Inc.*, 484
23 F. Supp. 3d 921, 933–34 (D. Or. 2020) (dismissing trafficking victim’s suit against
24 hotel chains because she was trafficked at defendants’ hotels in Washington and thus
25 their Oregon-focused conduct could not have been the cause of the harm sustained
26 in Washington); *Prime Healthcare Centinela, LLC v. Kimberly-Clark Corp.*, 2016
27 WL 7177532, at *1–2 (C.D. Cal. May 26, 2016) (dismissing claims of plaintiffs
28 whose injuries did not arise out of defendant’s California activities since “personal

jurisdiction must be established *for each defendant and by each plaintiff*)” (emphasis in original) (citation omitted). *See also Bristol-Myers Squibb Co. v. Superior Ct.*, 137 S. Ct. 1773, 1781–82 (2017) (holding that, in lawsuit alleging injuries from pharmaceutical company’s drug, California court did not have specific jurisdiction over claims by out-of-state plaintiffs because they did not suffer any harm in state, and explaining that “[w]hat is needed – and what is missing here – is a connection between the forum and the specific claims at issue”).

Fourth, even if the Related Cases Plaintiffs were able to satisfy the first two elements of the specific jurisdiction test, the exercise of jurisdiction over Bergmair would not be reasonable. As set forth in Bergmair’s motion to dismiss in *Fleites*, five of the seven relevant factors in that case weigh against exercising jurisdiction over Bergmair. Bergmair Motion at 32-34. The same analysis applies here with respect to the Plaintiffs who are California residents (Plaintiffs J.L. and W.L.). And the balance tips even more strongly against exercising jurisdiction with respect to Foreign Plaintiffs and Non-CA Plaintiffs, none of whom has any connection to California. The fourth factor of the test focuses on the forum state’s interest in adjudicating the dispute. Where Plaintiffs are California residents, California has an interest in providing a forum for its residents who are tortiously injured. *Dole Food Co. v. Watts*, 303 F.3d 1104, 1115–16 (9th Cir. 2002). But with respect to Foreign Plaintiffs and Non-CA Plaintiffs, California has no cognizable interest in providing a forum for disputes involving residents of other states, much less those involving residents of Thailand, Colombia and the United Kingdom. As a result, this factor weighs against jurisdiction with respect to those Plaintiffs. In sum, aside from the convenience of the plaintiff, which is accorded little weight, five of the remaining six factors weigh against jurisdiction in the cases of Plaintiffs J.L. and W.L., and all six weigh against jurisdiction in the cases of Foreign Plaintiffs and Non-CA Plaintiffs. Thus, the balance of factors indicates that the exercise of jurisdiction over Bergmair in this district would not be reasonable in any of the 14

1 Related Cases, and most certainly not in the 12 actions brought by Foreign Plaintiffs
2 and Non-CA Plaintiffs.

3 **II. Plaintiffs have failed to state a claim against Bergmair.**

4 Just as Plaintiffs are unable to establish personal jurisdiction over Bergmair,
5 their claims are barred by Section 230 and their allegations in the Related Cases
6 Complaints are insufficient to state any viable claim for relief.

7 **A. Section 230 bars all of Plaintiffs’ claims against Bergmair.**

8 As set forth in the motions to dismiss of the MindGeek Entity Defendants and
9 Bergmair in *Fleites*, all of the Related Cases Plaintiffs’ claims against Bergmair are
10 barred by Section 230. Bergmair Motion at 35.

11 **B. The Complaints’ generalized allegations fail to state a claim.**

12 **1. The Complaints’ “Group Pleading” allegations are**
13 **insufficient to state a claim against Bergmair.**

14 As discussed above, the vast majority of the references to Bergmair in the
15 Complaints are in the form of impermissible “group pleading” – allegations
16 attributing conduct to all the Individual Defendants as a group, without
17 differentiating between them. Just as in the personal jurisdiction context, such group
18 pleading is insufficient to state a claim against Bergmair under Fed. R. Civ. P. 8(a).¹⁹
19 *See Sollberger v. Wachovia Sec., LLC*, 2010 WL 2674456 at *4-5 (C.D. Cal. June
20 30, 2010) (complaint’s “shotgun pleading” failed to state a claim because of its
21 “impermissible lumping of Defendants” without making any specific allegations
22

23 ¹⁹ The Complaints’ allegations also plainly fail to satisfy the heightened pleading
24 requirements of Rule 9(b). For example, Count XIV of the Complaints (alleging a
25 violation of California Business and Professions Code §§ 17200 and 17500) sounds
26 in fraud, so Rule 9(b) requires that it set forth “the who, what when, where and how”
27 of the alleged misconduct. *Securities and Exchange Comm’n v. Ferrante*, 2019 WL
28 8230852, at * 3 (C.D. Cal. Jan. 23, 2019) (quoting *Vess v. Ciba-Geigy Corp., USA*,
317 F.3d 1097, 1106 (9th Cir. 2003)). The Complaints’ vague allegations do not come
close to meeting the Rule 8(a) standard, much less Rule 9(b)’s requirements, where
applicable.

1 against individual defendants); *E.D.C. Technologies, Inc. v. Seidel*, 2016 WL
2 4549132 at *9 (N.D. Cal. Sept. 1, 2016) (dismissing claim because “undifferentiated
3 pleading against multiple defendants is improper”); *Fagbohunge v. Caltrans*, 2014
4 WL 644008, at *3 n.4 (N.D. Cal. Feb. 19, 2014) (dismissing claim where
5 complaint’s allegations of conduct by unspecified defendants was “insufficient on
6 its face” because it failed to “differentiate between each of the defendants”); *Yost v.*
7 *Nationstar Mortgage, LLC*, 2013 WL 4828590 at *3 (E.D. Cal. Sept. 9, 2013)
8 (dismissing claim where complaint’s allegations were “ascribed to Defendants
9 collectively” because Rule 8 requires plaintiff to “distinguish Defendants’ particular
10 roles in the alleged causes of action...[and] provide facts showing how each and
11 every Defendant is involved”); *Corazon v. Aurora Loan Services, LLC*, 2011 WL
12 1740099 at *4 (N.D. Cal. May 5, 2011) (dismissing claim where complaint’s
13 allegations “fail[ed] to differentiate among defendants or specify which defendant
14 is the subject of Plaintiff’s various allegations”).

15 **2. The Complaints do not plead facts establishing that**
16 **Bergmair was the guiding spirit or a direct participant in the**
17 **alleged tortious conduct.**

18 The allegations in the Related Cases Complaints are also insufficient to hold
19 Bergmair responsible for the conduct of corporate entities. A corporate shareholder
20 or employee is not liable for the company’s torts unless he “authorizes or directs or
21 ... participates” in the wrongful conduct. *Facebook, Inc. v. Power Ventures, Inc.*,
22 844 F.3d 1058, 1069 (9th Cir. 2016); *Coastal Abstract Service, Inc. v. First*
23 *American Title Ins. Co.*, 173 F.3d 725, 734 (9th Cir. 1999). Just as in the personal
24 jurisdiction context, cases finding “personal liability on the part of corporate officers
25 have typically involved instances where the defendant was the ‘guiding spirit’
26 behind the wrongful conduct, or the ‘central figure’ in the challenged corporate
27 activity.” *Facebook*, 844 F.3d at 1069 (quoting *Davis v. Metro Prods., Inc.*, 885
28 F.2d 515, 523 n.10 (9th Cir. 1989)). As described in Bergmair’s motion to dismiss

1 in *Fleites*, district courts have repeatedly ruled that generalized allegations of
2 corporate oversight and control, like those against Bergmair in the Related Cases,
3 are not sufficient to meet the guiding spirit standard and thus fail to state a claim
4 under Rule 12(b)(6). Bergmair Motion at 36-38.

5 **C. The Complaints fail to properly allege a valid claim on specific**
6 **counts.**

7 In addition to the protections of Section 230 and the Related Cases
8 Complaints' overarching lack of specificity regarding Bergmair, each of the
9 individual counts of the Complaints is insufficiently pleaded in other respects.
10 Bergmair joins in the motions and arguments of all the other defendants in both
11 *Fleites* and the Related Cases with respect to the deficiencies in the Complaints'
12 individual claims. In addition to the deficiencies identified there, and those
13 discussed above, Plaintiffs' claims against Bergmair are also insufficient for the
14 reasons set forth below.

15 **1. The federal trafficking claims (Counts I and IV) fail to state**
16 **a claim.**

17 Plaintiffs' 18 U.S.C. §1595 claims (June Compl. Counts I and IV; J.L. Compl.
18 Counts I and IV) in the Related Cases fail against Bergmair for several reasons.
19 **First**, the Complaints allege that Bergmair is a resident of China (June Compl. ¶ 17;
20 J.L. Compl. ¶ 17) and allege no conduct by him in the United States. But as set forth
21 in Bergmair's motion to dismiss in *Fleites*, §1595 does not apply extraterritorially
22 to him. Bergmair Motion at 38-39. **Second**, the absence of any allegation that
23 Bergmair knew or had dealings with Plaintiffs is fatal to Plaintiffs' claims under
24 both subsections (a)(1) and (a)(2) of §1591. Bergmair Motion at 39. **Finally**, Count
25 IV, alleging a conspiracy under §1594(c), is also deficient because there was no civil
26 right of action for conspiring to violate §1591 prior to January 6, 2023 and the
27
28

1 Complaints allege no conduct by Bergmair after this date.²⁰

2 **2. The federal child pornography claims (Counts V and VI)**
3 **fail to state a claim.**

4 Plaintiffs’ 18 U.S.C. §§ 2252 and 2252A claims (June Compl. Counts V and
5 VI; J.L. Compl. Counts V and VI) in the Related Cases fail against Bergmair for
6 similar reasons. **First**, since the Complaints concede that Bergmair lives in China
7 and allege no conduct by him in the United States, §§ 2252 and 2252A, which do
8 not have extraterritorial application, cannot apply to him. **Second**, the Complaints
9 contain no allegations that Bergmair personally had any knowledge of the explicit
10 nature of the material or that the performers were underage. Indeed, there is no
11 allegation that Bergmair knew of Plaintiffs’ existence or had any contact at all with
12 the specific videos featuring them. As a result, these counts plainly fail to state a
13 viable claim against Bergmair. Bergmair Motion at 38-39.

14 **3. The California common law claims (Counts VII, VIII, IX, X,**
15 **XIII, XVI, XVII) fail to state a claim.**

16 Plaintiffs’ California common law claims (June Compl. Counts VII, VIII, IX,
17 X, XIII, XVI, XVII; J.L. Compl. Counts VII, VIII, IX, X, XIII, XVI, XVII) in the
18 Related Cases fail against Bergmair for several reasons. **First**, the Related Cases
19 Complaints do not allege that Bergmair ever knew or had any contact with Plaintiffs
20 or their videos, so the Complaints necessarily fail to allege that he took the actions
21 necessary to satisfy the elements of Plaintiffs’ common law claims. Each of the
22 counts of the Complaints alleging California common law claims repeat an identical
23 factual allegation as the basis for the claim, asserting that MindGeek “maintain[ed],
24 stream[ed], distribut[ed], reupload[ed] and monetiz[ed] videos and images
25
26

27 ²⁰ Moreover, the Ninth Circuit has ruled that the statute creating the conspiracy cause
28 of action does not have retroactive effect. *See Ratha v. Rubicon Resources, LLC*, 111
F.4th 946, 969 (9th Cir. 2024).

1 of...Plaintiff on its websites...”²¹ K.A. Compl. ¶¶ 387, 395, 400, 407, 427, 454.²²
2 But the Complaints contain no allegation that Bergmair ever even knew of Plaintiffs
3 or their videos, much less that he personally took any of the specific actions described
4 with respect to their videos.

5 **Second**, the California common law claims against Bergmair of Foreign
6 Plaintiffs and Non-CA Plaintiffs are deficient because California law does not reach
7 conduct outside California. Here, the Related Cases Complaints, which concede that
8 Bergmair is a resident of China, contain no allegation that he undertook any actions
9 in California.²³ But California common law only applies where “the conduct which
10 gives rise to liability ... occurs in California.” *Russo v. APL Marine Servs., Ltd.*, 135
11 F. Supp. 3d 1089, 1096 (C.D. Cal. 2015), *aff’d*, 694 F. App’x 585 (9th Cir. 2017)
12 (quoting *Diamond Multimedia Sys., Inc. v. Superior Ct.*, 19 Cal. 4th 1036, 1059 (Cal.
13 1999)); *Addaday, Inc. v. Artist Int’l Co.*, 2022 WL 1516053, at *10 (C.D. Cal. Feb.
14 22, 2022) (dismissing California statutory and common law claims where there was
15 no allegation that conduct giving rise to plaintiff’s claims took place in California);

16 ²¹ One count (Count XVI) contains no particularized allegations regarding the factual
17 basis for the claim, instead merely referencing “Defendants’ conduct toward
18 Plaintiff, as described herein.” K.A. Compl. ¶ 448. *See* L.T. Compl. ¶ 450; N.L.
19 Compl. ¶ 451; N.Y. Compl. ¶ 457; T.C. Compl. ¶ 448; X.N. Compl. ¶ 449; J.C.
20 Compl. ¶ 130 (at page 122); C.S. Compl. ¶ 448; S.O. Compl. ¶ 449; W.L. Compl. ¶
21 451; L.S. Compl. ¶ 450; A.K. Compl. ¶ 450; W.P. Compl. ¶ 447; J.L. Compl. ¶ 457.

22 ²² *See* L.T. Compl. ¶¶ 389, 397, 402, 409, 429, 456; N.L. Compl. ¶¶ 390, 398, 403,
23 410, 430, 457; N.Y. Compl. ¶¶ 396, 404, 409, 416, 436, 463; T.C. Compl. ¶¶ 387,
24 395, 400, 407, 427, 454; X.N. Compl. ¶¶ 388, 396, 401, 408, 428, 455; J.C. Compl.
25 ¶¶ 69, 77, 82, 89, 109, 136 (at pages 114-117, 119, 123-124); C.S. Compl. ¶¶ 387,
26 395, 400, 407, 427, 454; S.O. Compl. ¶¶ 388, 396, 401, 408, 428, 455; W.L. Compl.
¶¶ 390, 398, 403, 410, 430, 457; L.S. Compl. ¶¶ 389, 397, 402, 409, 429, 456; A.K.
Compl. ¶¶ 389, 397, 402, 409, 429, 456; W.P. Compl. ¶¶ 386, 394, 399, 406, 426,
453; J.L. Compl. ¶¶ 396, 404, 409, 416, 436, 463.

27 ²³ Indeed, the Complaints acknowledge that MindGeek itself was managed from
28 Canada, where its senior management team worked. June Compl. ¶¶ 16, 300-01; J.L.
Compl. ¶¶ 16, 298-99.

1 *Aldini AG v. Silvaco, Inc.*, 2022 WL 20016826, at *16 (N.D. Cal. Aug. 3, 2022)
2 (dismissing California common law claims for failure to allege tortious conduct “that
3 occurred in California”). *See also Zakikhan v. Hyundai Motor Co.*, 2021 WL
4 4805454, at *6-7 (C.D. Cal. June 28, 2021) (in action in which one California
5 plaintiff and six plaintiffs from other states alleged California statutory and common
6 law claims, court dismissed claims of non-California plaintiffs, ruling that they did
7 not have standing to assert claims from states in which they did not reside). Plaintiffs
8 from Colombia and Thailand (or Colorado and Rhode Island) who allege they were
9 injured by an individual living in China cannot credibly argue that California
10 common law applies to their claims.

11 **4. The California statutory claims (Counts XI, XII, XIV, XV)**
12 **fail to state a claim.**

13 Plaintiffs’ California statutory claims (June Compl. Counts XI, XII, XIV and
14 XV; J.L. Compl. Counts XI, XII, XIV and XV) in the Related Cases fail against
15 Bergmair for several reasons. **First**, just as with Plaintiffs’ other claims, the fact that
16 the Related Cases Complaints do not allege that Bergmair ever knew or had any
17 contact with Plaintiffs or their videos necessarily means that they fail to allege that
18 he took the actions necessary to satisfy the elements of Plaintiff’s California statutory
19 claims. For example, Count XI asserts a claim under California Civil Code § 3344,
20 which requires that a defendant “knowingly use another’s name, voice ... or likeness,
21 in any manner ... without such person’s consent” Count XII asserts a claim under
22 California Civil Code § 1708.85, which provides a right of action against anyone who
23 “intentionally distributes by any means a photograph, film, videotape ... of another,
24 without the other’s consent” The Complaints contain no allegation that Bergmair
25 ever even knew of Plaintiffs or their videos, much less that he personally used their
26 likeness or took any other action with respect to them or their videos in violation of
27 either §§ 3344 or 1708.85. Count XV, which asserts a claim under California’s
28 trafficking statute, Penal Code § 236.1, is similarly deficient. That statute applies to

1 a defendant who “causes, induces, or persuades ... *a person* who is a minor ... to
2 engage in a commercial sex act ...” (emphasis added). Just as under the federal
3 trafficking statute (discussed above), since there is no claim that Bergmair even knew
4 the Related Cases Plaintiffs, he could not have taken one of the actions specified in
5 § 236.1 with respect to their persons.

6 **Second**, just as with their California common law claims, Foreign Plaintiffs’
7 and Non-CA Plaintiffs’ California statutory claims against Bergmair are deficient
8 because the California statutes on which they are based do not reach conduct outside
9 California or address injuries to parties outside California. California laws have no
10 extraterritorial application unless the statute clearly expresses an intention to apply
11 outside the state. *Sullivan v. Oracle Corp.*, 51 Cal. 4th 1191, 1207 (Cal. 2011) (citing
12 *Diamond Multimedia Systems*, 19 Cal. 4th at 1059). Here, none of the laws upon
13 which the Related Cases Plaintiffs base their statutory claims bear any indication that
14 they were intended to apply extraterritorially. Foreign Plaintiffs and Non-CA
15 Plaintiffs acknowledge that they lived outside California at all relevant times²⁴ and
16 do not allege that Bergmair undertook any actions in California. California statutes
17 do not apply to actions outside of California that allegedly injure non-residents. *See*
18 *Warner v. Tinder, Inc.*, 105 F. Supp. 3d 1083, 1095-97 (C.D. Cal. 2015) (finding
19 deficient non-resident plaintiff’s California UCL and FAL claims against company
20 whose principal place of business was California because complaint failed to allege
21 that the decisions concerning the business practices challenged by plaintiff were
22 made in California); *Standfacts Credit Services, Inc. v. Experian Information*
23 *Solutions, Inc.*, 405 F. Supp. 2d 1141, 1147-48 (C.D. Cal. 2005) (California UCL
24 claims of non-resident plaintiffs against non-resident defendants dismissed where
25 complaint did not specifically allege any wrongful acts by defendants in state). *See*

26 ²⁴ K.A. Compl. ¶ 10; L.T. Compl. ¶ 10; N.L. Compl. ¶ 10; N.Y. Compl. ¶ 10; T.C.
27 Compl. ¶ 10; X.N. Compl. ¶ 10; J.C. Compl. ¶ 10; C.S. Compl. ¶ 10; S.O. Compl. ¶
28 10; L.S. Compl. ¶ 10; A.K. Compl. ¶ 10; W.P. Compl. ¶ 10.

1 *also Norwest Mortgage, Inc. v. Superior Court*, 72 Cal. App. 4th 214, 224-25 (Cal.
2 Ct. App. 1999) (rejecting California statutory claims for “injuries suffered by non-
3 California residents, caused by conduct occurring outside of California’s borders”).

4 **CONCLUSION**

5 For these reasons, the Court should dismiss the Complaint with prejudice for
6 both lack of personal jurisdiction and failure to state a claim for relief.

7 Dated: October 30, 2024

8 By: /s/ Ronald G. White

9 RONALD G. WHITE
10 (admitted *pro hac vice*)
11 rwhite@wmhwlaw.com
12 Walden Macht Haran & Williams LLP
13 250 Vesey Street
14 New York, NY 10281
15 Tel: (212) 335-2387
16 Fax: (212) 335-2040

17 DAN MARMALEFSKY (CA SBN
18 95477)
19 DMarmalefsky@mofo.com
20 Morrison & Foerster LLP
21 707 Wilshire Boulevard
22 Los Angeles, California 90017-3543
23 Telephone: 213-892-5200
24 Facsimile: 213-892-5454

25 Attorneys for Defendant Bernd Bergmair
26
27
28

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Bernd Bergmair, certifies that the Memorandum of Points and Authorities consists of 21 pages, which complies with the 50-page limit set forth in the Court's October 9, 2024 Order Granting Joint Stipulation to Request Limited Coordination for Purposes of Responding to Complaints in Related Cases (ECF No. 54).

Dated: October 30, 2024

Respectfully submitted,

/s/ Ronald G. White

RONALD G. WHITE

(admitted *pro hac vice*)

rwhite@wmhwlaw.com

Walden Macht Haran & Williams LLP

250 Vesey Street

New York, NY 10281

Tel: (212) 335-2387

Fax: (212) 335-2040

DAN MARMALEFSKY (CA SBN 95477)

DMarmalefsky@mofo.com

Morrison & Foerster LLP

707 Wilshire Boulevard

Los Angeles, California 90017-3543

Telephone: 213-892-5200

Facsimile: 213-892-5454

Attorneys for Defendant Bernd Bergmair

CERTIFICATE OF SERVICE

The undersigned, the counsel of record for Bernd Bergmair, certifies that the foregoing instrument was served pursuant to the Federal Rules of Civil Procedure on October 30, 2024 upon all counsel of record via ECF.

Dated: October 30, 2024

Respectfully submitted,

/s/ Ronald G. White

RONALD G. WHITE

(admitted *pro hac vice*)

rwhite@wmhwlaw.com

Walden Macht Haran & Williams LLP

250 Vesey Street

New York, NY 10281

Tel: (212) 335-2387

Fax: (212) 335-2040

DAN MARMALEFSKY (CA SBN 95477)

DMarmalefsky@mofo.com

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Los Angeles, California 90017-3543

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Facsimile: 213-892-5454

Attorneys for Defendant Bernd Bergmair